

REMARKS

Applicants respectfully request reconsideration and continued examination of this application in view of the amendment and the following remarks.

1. Status of the Claims

Claims 1, 4-12, and 18-29 are pending in the application. Claims 1, 18, 19 and 21-23 were rejected under 35 U.S.C. 102(b). Claims 4-12 and 20 were rejected under 35 U.S.C. 103(a). Claims 3 and 13-17 were objected to but indicated to contain allowable subject matter. They have been re-written in independent form and submitted as new claims 24-29.

Support for the amendments and the new claims is found in the original specification, and no new matter has been introduced. Support for these amendments is found in, for example:

Figures 1-6B;

Paragraphs 0005-0010; and

Paragraphs 0021-0024.

2. 35 U.S.C. 102(b) Rejections

Claims 1, 18, 19 and 21-23 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,813,569 ("Cihanek"). This rejection is traversed because Cihanek fails to disclose a retention mechanism to retain a portion of said at least one item in the automated freezer when said cartridge is removed from the automated freezer, as required by all of Applicant's claims.

The claims require a retention mechanism that is able to retain a portion of at least one food item. The flanges disclosed in Cihanek are not capable of retaining a portion of at least one item. Cihanek discloses that the flanges are of any geometrical configuration sufficient to block upward movement of product. Col. 3, lines 49-54. However, the flanges are made such that product can be added or removed without removal of the flanges, as seen in Fig. 10. Col. 3, lines 54-67. Therefore, the flanges disclosed in Cihanek are not capable of retaining a portion of at least one item.

In addition, the flanges of Cihanek do not retain at least one item in the automated freezer when the cartridge is removed. The instant invention requires that the retention members retain any food item in the buffer in the freezer compartment. Paras. [35] and [37]. Cihanek does not disclose retaining any items in the refrigerator after the display is removed. As seen in Fig. 8, Cihanek discloses that the flanges and the food items are removed from the refrigerator with the entire display, and no food items remain in the freezer. Col. 5 lines 36-43. The flanges in Cihanek do not remain in the freezer to be able to retain at least one item; and the food items do not remain in the freezer to be retained.

Cihanek does not disclose movable retention members. The retention members of the instant invention are moveable between a first position (Figs. 4A and 4B) and a second position (Figs. 5A and 5B). Para. [35]. The retention members can be movable arms that move to the second position when the cartridge is loaded, allowing food items to travel through the inner passage. Paras [36-37]. The retention members move to the first position when the cartridge is removed, retaining any food items in the freezer compartment (Figs. 6A and 6B). Para. [37]. In Cihanek, the flanges do not move or rotate when the cartridges are placed into the dispenser, when the cartridge is removed, or at any other time. The flanges are fixed in place during the operation disclosed in Cihanek.

For at least the foregoing reasons, Cihanek does not disclose the retention mechanism of claims 1, 18, 19 and 21-23 and all claims dependent thereon. Accordingly, applicant respectfully traverses Examiner's rejections.

2. 35 U.S.C. 103(a) Rejections

a) 103(a) Rejections over Cihanek in view of Kaufman

Claims 4, 5 and 7 were rejected for obviousness over the combination of Cihanek, U.S. Patent No. 5,813,569 ("Cihanek") and Kaufman, U.S. Patent No. 5,335,816 ("Kaufman").

Neither Cihanek nor Kaufman teaches or suggests a retention mechanism to retain a portion of said at least one item in the automated freezer when said cartridge is

removed from the automated freezer, as required by claims 4, 5 and 7 and all claims dependent thereon. As discussed in the 102(b) section above, Cihanek does not teach or suggest the claimed retention mechanism.

Kaufman also does disclose or suggest any type of retention mechanism to retain a portion of said at least one item in the automated freezer. Kaufman does not disclose any type of freezer compartment. Kaufman discloses storage compartments that can be individually removed from the housing to be refilled with medication blister packs. Col. 5, lines 53-57. Similar to Cihanek, the module disclosed in Kaufman is able to be refilled by hand while in use. Col. 5, lines 25-36. When the module in Kaufman is removed, no retention mechanism holds medication remaining in the housing. As seen in Figs. 8 and 11 of Kaufman, no medication can be left behind in the storage compartment when the modules are removed.

For at least the foregoing reasons, applicant respectfully traverses Examiner's rejections.

b) 103(a) Rejections over Cihanek in view of Mishina

Claims 6, 8 and 20 were rejected for obviousness over the combination of Cihanek and Mishina, U.S. Patent No. 5,555,965 ("Mishina").

Neither Cihanek nor Mishina teaches or suggests a retention mechanism to retain a portion of said at least one item in the automated freezer when said cartridge is removed from the automated freezer, as required by claims 6 and 8 and all claims dependent thereon. As discussed above, Cihanek does not disclose or suggest the claimed retention mechanism.

Mishina also does not disclose or suggest any type of retention mechanism to retain a portion of said at least one item in the automated freezer. Mishina discloses a vending machine that dispenses various objects. Col. 2, lines 12-21. As seen in Fig. 4A and 4B, the products are stacked to be dispensed by gravity, without the presence of any removable cartridge. Col. 7, lines 36-45; col. 8, lines 30-40. In addition, Mishina does not disclose any type of cooling or freezer compartment.

Also, neither Cihanek nor Mishina teaches or suggests retaining a portion of the at least one item in the automated freezer after the step of removing the cartridge, as

required by claim 20 and all claims dependent thereon. As discussed above, Cihanek and Mishina do not disclose or suggest retaining any items in the freezer compartment after the cartridge is removed.

For at least the foregoing reasons, applicant respectfully traverses Examiner's rejections.

c) 103(a) Rejections over Cihanek in view of Tansley

Claim 9 was rejected for obviousness over the combination of Cihanek and Tansley, U.S. Patent No. 2,315,827 ("Tansley").

Neither Cihanek nor Tansley teaches or suggests a retention mechanism to retain a portion of at least one item in the automated freezer when the cartridge is removed from the automated freezer, as required by claims 6 and 8 and all claims dependent thereon. As discussed above, Cihanek does not teach or suggest a retention mechanism to retain a portion of at least one item in the automated freezer when the cartridge is removed from the automated freezer.

Tansley also does not teach or suggest any type of retention mechanism to retain a portion of at least one item in the automated freezer when the cartridge is removed. Tansley does not disclose or suggest having a removable cartridge or any type of freezer compartment. Similar to Cihanek, the module disclosed in Tansley is able to be refilled by hand while in use, as seen in Fig. 1. Cups are merely dropped into the device, and then pulled out by hand on the other side. Col. 2, lines 26-33. In addition, the jaws are not of fixed proportions, being radially adjustable to fit various cup diameters. Col. 1, lines 42-49. Thus, the cups are able to be removed easily by hand, and are not retained.

For at least the foregoing reasons, applicant respectfully traverses Examiner's rejections.

d) 103(a) Rejections over Cihanek in view of Covington

Claims 10-12 were rejected for obviousness over the combination of Cihanek and Covington, U.S. Patent No. 4,142,863 ("Covington").

Neither Cihanek nor Covington teaches or suggests a retention mechanism to retain a portion of at least one item in the automated freezer when the cartridge is

removed from the automated freezer, as required by claims 10 and 12 and all claims dependent thereon. As discussed above, Cihanek does not disclose a retention mechanism to retain a portion of at least one item in the automated freezer when the cartridge is removed from the automated freezer.

Covington also does not teach or suggest any type of retention mechanism to retain a portion of said at least one item in the automated freezer. Covington does not disclose or suggest having a removable cartridge or any type of freezer compartment.

Covington discloses a stack of slides that are removed by the insertion of a push blade that moves aside a pair of tabs, as seen in Fig. 3. Col. 2, lines 53-64.

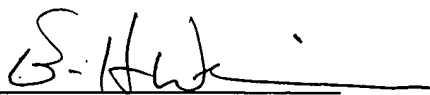
Covington does not disclose or suggest having any type of retention member in the cartridge to prevent the slides from falling out of the display. The Covington invention as disclosed does not need a retention member to keep the reagent slides from falling out because the slides are in a closed container. Covington also does not disclose how the casing parts 12 and 14 are connected, or suggest that they would be connected removably. However, the way the parts are shown being assembled in Fig. 3 indicates that the internal assembly would fall apart if the parts were separated.

For at least the foregoing reasons, applicant respectfully traverses Examiner's rejections.

CONCLUSION

In view of the foregoing, all of the rejections have been overcome and claims 1-29 are allowable. An early indication of allowance is solicited.

Respectfully submitted,

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